



S/N 10/033,575

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	LIAMOS et al.	Examiner:	K. OLSEN
Serial No.:	10/033,575	Group Art Unit:	1753
Filed:	December 28, 2001	Docket No.:	12008.42USC1
		Confirmation No.:	9713
Title:	SMALL VOLUME IN VITRO ANALYTE SENSOR AND METHODS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 5, 2003.

By: *Rebecca Ralls*
Name: Rebecca Ralls

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL
DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petitioner, TheraSense, Inc., a corporation organized and existing under the laws of the State of Delaware and having its primary place of business at 1360 South Loop Road, Alameda, California, 94502 represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/033,575, filed on December 28, 2001 and entitled SMALL VOLUME IN VITRO ANALYTE SENSOR AND METHODS ("present application"), by virtue of our assignments recorded at Reel 010797, Frame(s) 0817, and Reel 011042, Frame(s) 0548.

Petitioner, TheraSense, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would

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extend beyond the expiration date of the full statutory term as shortened by any terminal disclaimer filed prior to the grant of any patent granted from pending second U.S. Patent Application Serial No. 10/033,506, filed on December 28, 2001, and entitled SMALL VOLUME IN VITRO ANALYTE SENSOR AND METHODS ("second application") and hereby agrees that any patent so granted on the present application, Serial No. 10/033,575, shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on the second application, this agreement to run with any patent granted on the present application, Serial No. 10/033,575, and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the present application that would extend to the full statutory term as shortened by any terminal disclaimer filed prior to the patent grant on the second application, in the event that any such issued patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Representative for Petitioner,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date:

December 5
2003

Mara E. Liepa
Mara E. Liepa
Reg. No. 40,066

THE STATEMENT BELOW IS FOR OFFICE USE ONLY

In accordance with the decision granting the petition filed on _____, _____, this terminal disclaimer is accepted. The period of patent lapse specified above has been accepted as equivalent to _____ months.

Petitions Examiner

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PATENT TRADEMARK OFFICE